

Designation Run Report

Kelly, Patrick - Defendants' Counter-Designations 5-12 10am

Kelly, Patrick 05-10-2019

Defendants' Counter-Designations 00:04:25

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242:19 - 243:04	Kelly, Patrick 05-10-2019 (00:00:26) 242:19 Q. Handing you what's marked as 242:20 Exhibit 24. 242:21 (Document marked for 242:22 identification as Exhibit 242:23 HDA-Kelly-24.) 242:24 BY MR. PIFKO: 243:1 Q. It is a three-page e-mail 243:2 between HDA and AmerisourceBergen. 243:3 Bates-labeled HDA_MDL_000156499 through 243:4 156501.	V706.2
243:05 - 243:06	Kelly, Patrick 05-10-2019 (00:00:02) 243:5 Take a minute to review 243:6 this, and let me know when you're done.	V706.3
243:07 - 243:13	Kelly, Patrick 05-10-2019 (00:00:14) 243:7 There is some discussion 243:8 about whether Chris Zimmerman from 243:9 AmerisourceBergen is going to serve as 243:10 a -- a chairman of a committee. I'm not 243:11 interested in that part of the discussion 243:12 here. 243:13 A. Okay.	V706.4
243:14 - 244:18	Kelly, Patrick 05-10-2019 (00:01:06) 243:14 Q. This goes back to earlier in 243:15 the process of developing the industry 243:16 compliance guidelines or best practices, 243:17 agree, it's back in early January 2008? 243:18 A. Yes. 243:19 Q. And this is before this 243:20 meeting with DEA, correct? 243:21 A. It is. 243:22 Q. Okay. And in this e-mail on 243:23 the first page, 156499, Mr. Zimmerman 243:24 tells HDA's Anita Ducca, "I think we need 244:1 to discuss the suspicious order project. 244:2 Since ABC has an agreement with DEA, it 244:3 does not matter what best practices HDMA 244:4 develops because ABC must adhere to its 244:5 written agreement with DEA. I assume 244:6 Cardinal will be in the same boat.	V706.5

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	<p>244:7 Therefore, I'm not sure what benefit ABC</p> <p>244:8 would receive from this project."</p> <p>244:9 Do you see that?</p> <p>244:10 A. I do.</p> <p>244:11 Q. Did I read that correctly?</p> <p>244:12 A. You do.</p> <p>244:13 Q. Okay. So you agree that at</p> <p>244:14 this time Mr. Zimmerman is saying that</p> <p>244:15 he's not going to implement any</p> <p>244:16 guidelines or best practices, and he</p> <p>244:17 assumes Cardinal is not going to either,</p> <p>244:18 correct?</p>	
244:23 - 245:10	<p>Kelly, Patrick 05-10-2019 (00:00:20)</p> <p>244:23 THE WITNESS: I think what</p> <p>244:24 he's implying is that they are</p> <p>245:1 already under strict adherence to</p> <p>245:2 a specific plan with -- directly</p> <p>245:3 with the DEA that satisfies their</p> <p>245:4 obligations. But it's specific to</p> <p>245:5 those companies individually,</p> <p>245:6 therefore, a model plan or</p> <p>245:7 guidelines is irrelevant for them.</p> <p>245:8 BY MR. PIFKO:</p> <p>245:9 Q. And they have no plan on</p> <p>245:10 implementing them at this time, correct?</p>	V706.6
245:15 - 246:01	<p>Kelly, Patrick 05-10-2019 (00:00:32)</p> <p>245:15 THE WITNESS: Because they</p> <p>245:16 have their own policies in place.</p> <p>245:17 BY MR. PIFKO:</p> <p>245:18 Q. You said here that they have</p> <p>245:19 a plan that satisfies the DEA. Where</p> <p>245:20 does it say that it satisfies the DEA?</p> <p>245:21 A. I'm deducing from this</p> <p>245:22 document that since ABC has an agreement</p> <p>245:23 with DEA, it does not matter what best</p> <p>245:24 practices HDMA develops because ABC must</p> <p>246:1 adhere to its written agreement with DEA.</p>	V706.7
284:18 - 285:01	<p>Kelly, Patrick 05-10-2019 (00:00:21)</p> <p>284:18 (Document marked for</p> <p>284:19 identification as Exhibit</p>	V706.8

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	284:20 HDA-Kelly-28.)	
	284:21 BY MR. PIFKO:	
	284:22 Q. I'm handing you what's	
	284:23 marked Exhibit 28, single-page document,	
	284:24 a letter from the DEA dated October 17,	
	285:1 2008, Bates-labeled CAH_MDL2804_02489203.	
285:02 - 285:08	Kelly, Patrick 05-10-2019 (00:00:18)	V706.9
	285:2 Take a minute to review this. This is a	
	285:3 letter HDA received after finalizing the	
	285:4 guidelines from DEA, correct?	
	285:5 A. I'm sorry. Could you	
	285:6 restate it?	
	285:7 Q. Take a minute to review it.	
	285:8 And let me know when you're done.	
285:09 - 286:24	Kelly, Patrick 05-10-2019 (00:01:06)	V706.10
	285:9 A. All right.	
	285:10 Q. Okay. This is a letter that	
	285:11 DEA receive -- or sorry, DEA sent to HDA	
	285:12 after the guidelines were completed,	
	285:13 correct?	
	285:14 A. That's my understanding,	
	285:15 yes.	
	285:16 Q. This is to HDA's president,	
	285:17 John Gray?	
	285:18 A. Yes.	
	285:19 Q. Okay. It says in the first	
	285:20 paragraph, second sentence, "The elements	
	285:21 set forth in the industry compliance	
	285:22 guidelines reporting suspicious orders	
	285:23 and preventing diversion of controlled	
	285:24 substances are important to sustaining	
	286:1 effective controls to guard against	
	286:2 diversion of controlled substances."	
	286:3 You agree that's what it	
	286:4 says?	
	286:5 A. That's what it says, yes.	
	286:6 Q. Second paragraph, last	
	286:7 sentence, "All distributors must	
	286:8 implement processes and procedures to	
	286:9 effectively ensure that controlled	

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286:10 substances are not diverted to illicit
286:11 use."
286:12 Do you agree with me that's
286:13 what it says?
286:14 A. Yes.
286:15 Q. Third paragraph, first
286:16 sentence, "Although diversion control is
286:17 not a one-size-fits-all effort, companies
286:18 that implement processes and procedures
286:19 that effectively accomplish these
286:20 objectives will do much to ensure that
286:21 vital controlled substances are not
286:22 diverted to illegitimate uses."
286:23 Agree that's what it says?
286:24 A. Yes.

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